

#### § 1.501(r)-4

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CHNA completed in Year 4 by the 15th day of the fifth month of Year 5.

(d) *Exception for acquired, new, and terminated hospital facilities*—(1) *Acquired hospital facilities*. A hospital organization that acquires a hospital facility (whether through merger or acquisition) must meet the requirements of section 501(r)(3) with respect to the acquired hospital facility by the last day of the organization's second taxable year beginning after the date on which the hospital facility was acquired. In the case of a merger between two organizations that results in the liquidation of one organization and the survival of the other organization, the hospital facility or facilities formerly operated by the liquidated organization will be considered "acquired" for purposes of this paragraph (d)(1).

(2) *New hospital organizations*. An organization that becomes newly subject to the requirements of section 501(r) because it is recognized as described in section 501(c)(3) and is operating a hospital facility must meet the requirements of section 501(r)(3) with respect to any hospital facility by the last day of the second taxable year beginning after the later of the effective date of the determination letter or ruling recognizing the organization as described in section 501(c)(3) or the first date that a facility operated by the organization was licensed, registered, or similarly recognized by a state as a hospital.

(3) *New hospital facilities*. A hospital organization must meet the requirements of section 501(r)(3) with respect to a new hospital facility it operates by the last day of the second taxable year beginning after the date the facility was licensed, registered, or similarly recognized by its state as a hospital.

(4) *Transferred or terminated hospital facilities*. A hospital organization is not required to meet the requirements of section 501(r)(3) with respect to a hospital facility in a taxable year if, before the end of that taxable year, the hospital organization transfers all ownership of the hospital facility to another organization or otherwise ceases its operation of the hospital facility or the facility ceases to be licensed, registered, or similarly recognized as a hospital by a state.

(e) *Transition rule for CHNAs conducted in taxable years beginning before March 23, 2012*. A hospital facility that conducted a CHNA described in section 501(r)(3) in either its first taxable year beginning after March 23, 2010, or its first taxable year beginning after March 23, 2011, does not need to meet the requirements of section 501(r)(3) again until the third taxable year following the taxable year in which the hospital facility conducted that CHNA, provided that the hospital facility adopted an implementation strategy to meet the community health needs identified through that CHNA on or before the 15th day of the fifth calendar month following the close of its first taxable year beginning after March 23, 2012.

[T.D. 9708, 79 FR 78998, Dec. 31, 2014; 80 FR 12762, Mar. 11, 2015]

#### § 1.501(r)-4 Financial assistance policy and emergency medical care policy.

(a) *In general*. A hospital organization meets the requirements of section 501(r)(4) with respect to a hospital facility it operates only if the hospital organization establishes for that hospital facility—

(1) A written financial assistance policy (FAP) that meets the requirements of paragraph (b) of this section; and

(2) A written emergency medical care policy that meets the requirements of paragraph (c) of this section.

(b) *Financial assistance policy*—(1) *In general*. To satisfy paragraph (a)(1) of this section, a hospital facility's FAP must—

(i) Apply to all emergency and other medically necessary care provided by the hospital facility, including all such care provided in the hospital facility by a substantially-related entity (as defined in § 1.501(r)-1(b)(28));

(ii) Be widely publicized as described in paragraph (b)(5) of this section; and

(iii) Include—

(A) The eligibility criteria for financial assistance and whether such assistance includes free or discounted care;

(B) The basis for calculating amounts charged to patients;

(C) The method for applying for financial assistance;

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(D) In the case of a hospital facility that does not have a separate billing and collections policy, the actions that may be taken in the event of non-payment;

(E) If applicable, any information obtained from sources other than an individual seeking financial assistance that the hospital facility uses, and whether and under what circumstances it uses prior FAP-eligibility determinations, to presumptively determine that the individual is FAP-eligible, as described in § 1.501(r)-6(c)(2); and

(F) A list of any providers, other than the hospital facility itself, delivering emergency or other medically necessary care in the hospital facility that specifies which providers are covered by the hospital facility's FAP and which are not.

(2) *Eligibility criteria and basis for calculating amounts charged to patients*—(i) *In general.* To satisfy paragraphs (b)(1)(iii)(A) and (b)(1)(iii)(B) of this section, the FAP must specify the following:

(A) All financial assistance available under the FAP, including all discounts and free care available under the FAP and, if applicable, the amount(s) (for example, gross charges) to which any discount percentages available under the FAP will be applied.

(B) The eligibility criteria that an individual must satisfy to receive each discount, free care, or other level of assistance available under the FAP.

(C) The method under § 1.501(r)-5(b) the hospital facility uses to determine the amounts generally billed to individuals who have insurance covering emergency or other medically necessary care (AGB). If the hospital facility uses the look-back method described in § 1.501(r)-5(b)(3), the FAP also must state the AGB percentage(s) that the hospital facility uses to determine AGB and describe how the hospital facility calculated such percentage(s) or, alternatively, explain how members of the public may readily obtain such percentage(s) and accompanying description of the calculation in writing and free of charge. In addition, the FAP must indicate that, following a determination of FAP-eligibility, a FAP-eligible individual may not be charged

more than AGB for emergency or other medically necessary care.

(ii) *Examples.* The following examples illustrate this paragraph (b)(2):

*Example 1.* (i) Q is a hospital facility that establishes a FAP that provides assistance to all uninsured and underinsured individuals whose family income is less than or equal to x% of the Federal Poverty Level (FPL), with the level of discount for which an individual is eligible under Q's FAP determined based upon the individual's family income as a percentage of FPL. Q's FAP defines the meaning of "uninsured," "underinsured," "family income," and "Federal Poverty Level." Q's FAP also states that Q determines AGB by multiplying the gross charges for any emergency or other medically necessary care it provides to a FAP-eligible individual by an AGB percentage of 56%. The FAP states, further, that Q calculated the AGB percentage of 56% based on all claims allowed by Medicare and private health insurers over a specified 12-month period, divided by the associated gross charges for those claims. Q's FAP contains the following chart, specifying each discount available under the FAP, the amounts (gross charges) to which these discounts will be applied, and the specific eligibility criteria for each such discount:

Family income as % of FPL	Discount off of gross charges
>y% – x% .....	50%.
>z% – y% .....	75%.
≤z% .....	Free.

(ii) Q's FAP also contains a statement that no FAP-eligible individual will be charged more for emergency or other medically necessary care than AGB because Q's AGB percentage is 56% of gross charges and the most a FAP-eligible individual will be charged is 50% of gross charges. Q's FAP satisfies the requirements of this paragraph (b)(2).

*Example 2.* (i) R is a hospital facility that establishes a FAP that provides assistance based on household income. R's FAP defines the meaning of "household income." R's FAP contains the following chart specifying the assistance available under the FAP and the specific eligibility criteria for each level of assistance offered, which R updates occasionally to account for inflation:

Household income	Maximum amount individual will be responsible for paying
>\$b – \$a .....	40% of gross charges, up to the lesser of AGB or x% of household income.
>\$c – \$b .....	20% of gross charges, up to the lesser of AGB or y% of household income.
≤\$c .....	\$0 (free).

(ii) R's FAP contains a statement that no FAP-eligible individual will be charged more for emergency or other medically necessary

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care than AGB. R's FAP also states that R determines AGB by multiplying the gross charges for any emergency or other medically necessary care it provides by AGB percentages, which are based on claims allowed under Medicare. In addition, the FAP provides a Web site address individuals can visit, and a telephone number they can call, if they would like to obtain an information sheet stating R's AGB percentages and explaining how these AGB percentages were calculated. This information sheet, which R makes available on its Web site and provides to any individual who requests it, states that R's AGB percentages are 35% of gross charges for inpatient care and 61% of gross charges for outpatient care. It also states that these percentages were based on all claims allowed for R's emergency or other medically necessary inpatient and outpatient care by Medicare over a specified 12-month period, divided by the associated gross charges for those claims. R's FAP satisfies the requirements of this paragraph (b)(2).

(3) *Method for applying for financial assistance*—(i) *In general.* To satisfy paragraph (b)(1)(iii)(C) of this section, a hospital facility's FAP must describe how an individual applies for financial assistance under the FAP. In addition, either the hospital facility's FAP or FAP application form (including accompanying instructions) must describe the information and documentation the hospital facility may require an individual to provide as part of his or her FAP application and provide the contact information described in § 1.501(r)-1(b)(24)(v). A hospital facility may not deny financial assistance under its FAP based on an applicant's failure to provide information or documentation unless that information or documentation is described in the FAP or FAP application form. However, a hospital facility may grant financial assistance under its FAP notwithstanding an applicant's failure to provide information or documentation described in the FAP or FAP application form and may, for example, rely on other evidence of eligibility or an attestation by the applicant to determine that the applicant is FAP-eligible.

(ii) *Example.* The following example illustrates this paragraph (b)(3):

*Example.* S is a hospital facility with a FAP that bases eligibility solely on an individual's household income. S's FAP provides that an individual may apply for financial assistance by completing and submitting S's

FAP application form. S's FAP also describes how individuals can obtain copies of the FAP application form. S's FAP application form contains lines on which the applicant lists all items of household income received by the applicant's household over the last month and the names of the applicant's household members. The instructions to S's FAP application form tell applicants where to submit the application and provide that an applicant must attach to his or her FAP application form proof of household income in the form of payroll check stubs from the last month or, if last month's wages are not representative of the applicant's annual income, a copy of the applicant's most recent federal tax return. Alternatively, the instructions state that an applicant may provide documentation of his or her qualification for certain specified state means-tested programs. The instructions also state that if an applicant does not have any of the listed documents proving household income, he or she may call S's financial assistance office and discuss other evidence that may be provided to demonstrate eligibility. S does not deny financial assistance to FAP applicants based on a failure to submit any information or documentation not mentioned in the FAP application form or instructions. S's FAP application form instructions also provide the contact information of the hospital facility office that can provide an applicant with information about the FAP and assistance with the FAP application process. S's FAP satisfies the requirements of this paragraph (b)(3).

(4) *Actions that may be taken in the event of nonpayment*—(i) *In general.* To satisfy paragraph (b)(1)(iii)(D) of this section, either a hospital facility's FAP or a separate written billing and collections policy established for the hospital facility must describe—

(A) Any actions that the hospital facility (or other authorized party) may take related to obtaining payment of a bill for medical care, including, but not limited to, any extraordinary collection actions (ECAs) described in § 1.501(r)-6(b);

(B) The process and time frames the hospital facility (or other authorized party) uses in taking the actions described in paragraph (b)(4)(i)(A) of this section, including, but not limited to, the reasonable efforts it will make to determine whether an individual is FAP-eligible before engaging in any ECAs, as described in § 1.501(r)-6(c); and

(C) The office, department, committee, or other body with the final authority or responsibility for determining that the hospital facility has made reasonable efforts to determine whether an individual is FAP-eligible and may therefore engage in ECAs against the individual.

(ii) *Separate billing and collections policy.* In the case of a hospital facility that satisfies paragraph (b)(1)(iii)(D) of this section by establishing a separate written billing and collections policy, the hospital facility's FAP must state that the actions the hospital facility may take in the event of nonpayment are described in a separate billing and collections policy and explain how members of the public may readily obtain a free copy of this separate policy.

(5) *Widely publicizing the FAP*—(i) *In general.* To satisfy the requirement in paragraph (b)(1)(ii) of this section to widely publicize its FAP, a hospital facility must—

(A) Make the FAP, FAP application form, and plain language summary of the FAP (as defined in § 1.501(r)-1(b)(24)) widely available on a Web site (as defined in § 1.501(r)-1(b)(29));

(B) Make paper copies of the FAP, FAP application form, and plain language summary of the FAP available upon request and without charge, both by mail and in public locations in the hospital facility, including, at a minimum, in the emergency room (if any) and admissions areas;

(C) Notify and inform members of the community served by the hospital facility about the FAP in a manner reasonably calculated to reach those members who are most likely to require financial assistance from the hospital facility; and

(D) Notify and inform individuals who receive care from the hospital facility about the FAP by—

(1) Offering a paper copy of the plain language summary of the FAP to patients as part of the intake or discharge process;

(2) Including a conspicuous written notice on billing statements that notifies and informs recipients about the availability of financial assistance under the hospital facility's FAP and includes the telephone number of the hospital facility office or department

that can provide information about the FAP and FAP application process and the direct Web site address (or URL) where copies of the FAP, FAP application form, and plain language summary of the FAP may be obtained; and

(3) Setting up conspicuous public displays (or other measures reasonably calculated to attract patients' attention) that notify and inform patients about the FAP in public locations in the hospital facility, including, at a minimum, the emergency room (if any) and admissions areas.

(ii) *Accessibility to limited English proficient individuals.* To widely publicize its FAP, a hospital facility must accommodate all significant populations that have limited English proficiency (LEP) by translating its FAP, FAP application form, and plain language summary of the FAP into the primary language(s) spoken by such populations. A hospital facility will satisfy this translation requirement in a taxable year if it makes available translations of its FAP, FAP application form, and plain language summary of the FAP in the language spoken by each LEP language group that constitutes the lesser of 1,000 individuals or 5 percent of the community served by the hospital facility or the population likely to be affected or encountered by the hospital facility. For purposes of this paragraph (b)(5)(ii), a hospital facility may determine the percentage or number of LEP individuals in the hospital facility's community or likely to be affected or encountered by the hospital facility using any reasonable method.

(iii) *Meaning of notify and inform.* For purposes of paragraphs (b)(5)(i)(C) and (b)(5)(i)(D)(3) of this section, a measure will notify and inform members of a community or patients about the hospital facility's FAP if the measure, at a minimum, notifies the reader or listener that the hospital facility offers financial assistance under a FAP and informs him or her about how or where to obtain more information about the FAP and FAP application process and to obtain copies of the FAP, FAP application form, and plain language summary of the FAP.

(iv) *Meaning of reasonably calculated.* Whether one or more measures to widely publicize a hospital facility's FAP are reasonably calculated to notify and inform members of a community or patients about the hospital facility's FAP in the manner described in paragraphs (b)(5)(i)(C) and (b)(5)(i)(D)(3) of this section will depend on all of the facts and circumstances, including the primary language(s) spoken by the members of the community served by the hospital facility and other attributes of the community and the hospital facility.

(v) *Examples.* The following examples illustrate this paragraph (b)(5):

*Example 1.* (i) Z is a hospital facility. The home page and main billing page of Z's Web site conspicuously display the following message: "Need help paying your bill? You may be eligible for financial assistance. Click [here](#) for more information." When readers click on the link, they are taken to a Web page that explains the various discounts available under Z's FAP and the specific eligibility criteria for each such discount. This Web page also provides all of the other information required to be included in a plain language summary of the FAP (as defined in § 1.501(r)-1(b)(24)), including a telephone number of Z that individuals can call and a room number of Z that individuals can visit for more information about the FAP and assistance with FAP applications. In addition, the Web page contains prominently-displayed links that allow readers to download PDF files of the FAP and the FAP application form, free of charge and without being required to create an account or provide personally identifiable information. Z provides any individual who asks how to access a copy of the FAP, FAP application form, or plain language summary of the FAP online with the URL of this Web page. By implementing these measures, Z has made its FAP widely available on a Web site within the meaning of paragraph (b)(5)(i)(A) of this section.

(ii) Z distributes copies of the plain language summary of its FAP and its FAP application form to all of its referring staff physicians and to the community health centers serving its community. Z also distributes copies of these documents to the local health department and to numerous public agencies and nonprofit organizations in its community that address the health issues and other needs of low-income populations, in quantities sufficient to meet demand. In addition, every issue of the quarterly newsletter that Z mails to the individuals in its customer database contains a prominently-displayed advertisement informing readers that Z offers financial assistance and that

people having trouble paying their hospital bills may be eligible for financial assistance. The advertisement provides readers with the URL of the Web page where Z's FAP and FAP application form can be accessed and a telephone number of Z that individuals can call and a room number of Z that individuals can visit with questions about the FAP or assistance with the FAP application process. By implementing these measures, Z notifies and informs members of its community about the FAP within the meaning of paragraph (b)(5)(i)(C) of this section.

(iii) Z makes paper copies of the FAP, FAP application form, and plain language summary of the FAP available upon request and without charge, both by mail and in its admissions areas and emergency room. Z also conspicuously displays a sign in large font regarding the FAP in its admissions areas and emergency room. The sign says: "Uninsured? Having trouble paying your hospital bill? You may be eligible for financial assistance." The sign also provides the URL of the Web page where Z's FAP and FAP application form can be accessed. In addition, the sign provides a telephone number of Z that individuals can call and a room number of Z that individuals can visit with questions about the FAP or assistance with the FAP application process. Underneath each sign, Z conspicuously displays copies of a brochure that contains all of the information required to be included in a plain language summary of the FAP (as defined in § 1.501(r)-1(b)(24)). Z makes these brochures available in quantities sufficient to meet visitor demand. Z also offers a plain language summary of the FAP as part of its intake process. Z's billing statements include a conspicuously-placed statement in large font containing the same information that Z includes on its signs. By implementing these measures, Z makes a paper copy of the FAP, FAP application form, and plain language summary of the FAP available upon request within the meaning of paragraph (b)(5)(i)(B) of this section and notifies and informs individuals who receive care from the hospital facility about the FAP within the meaning of paragraph (b)(5)(i)(D) of this section.

(iv) Because Z takes measures to widely publicize the FAP described in paragraphs (b)(5)(i)(A), (b)(5)(i)(B), (b)(5)(i)(C), and (b)(5)(i)(D) of this section, Z meets the requirement to widely publicize its FAP under paragraph (b)(1)(ii) of this section.

*Example 2.* Assume the same facts as *Example 1*, except that Z serves a community in which 6% of the members speak Spanish and have limited proficiency in English. Z translates its FAP, FAP application form, and FAP brochure (which constitutes a plain language summary of the FAP) into Spanish, and displays and distributes both Spanish and English versions of these documents in

its hospital facility using all of the measures described in *Example 1*. Z also distributes Spanish versions of its FAP application form and FAP brochure to organizations serving Spanish-speaking members of its community. Moreover, the home page and main billing page of Z's Web site conspicuously display an "¿Habla Español?" link that takes readers to a Web page that summarizes the FAP in Spanish and contains links that allow readers to download PDF files of the Spanish versions of the FAP and FAP application form, free of charge and without being required to create an account or provide personally identifiable information. Z meets the requirement to widely publicize its FAP under paragraph (b)(1)(ii) of this section.

(6) *Readily obtainable information.* For purposes of paragraphs (b)(2)(i)(C) and (b)(4)(ii) of this section, information is readily obtainable by members of the public if a hospital facility—

(i) Makes the information available free of charge on a Web site and via a paper copy upon request in a manner similar to that described in paragraphs (b)(5)(i)(A) and (b)(5)(i)(B) of this section; and

(ii) Provides translations of the information as described in paragraph (b)(5)(ii) of this section.

(7) *Providing documents electronically.* A hospital facility may provide electronically (for example, on an electronic screen, by email, or by providing the direct Web site address, or URL, of the Web page where the document or information is posted) any document or information that is required by this paragraph (b) to be provided in the form of a paper copy to any individual who indicates he or she prefers to receive or access the document or information electronically.

(8) *Medically necessary care.* For purposes of meeting the requirements of this section, a hospital facility may (but is not required to) use a definition of medically necessary care applicable under the laws of the state in which it is licensed, including the Medicaid definition, or a definition that refers to the generally accepted standards of medicine in the community or to an examining physician's determination.

(c) *Emergency medical care policy*—(1) *In general.* To satisfy paragraph (a)(2) of this section, a hospital organization must establish a written policy for a hospital facility that requires the hospital facility to provide, without dis-

crimination, care for emergency medical conditions to individuals regardless of whether they are FAP-eligible.

(2) *Interference with provision of emergency medical care.* A hospital facility's emergency medical care policy will not be described in paragraph (c)(1) of this section unless it prohibits the hospital facility from engaging in actions that discourage individuals from seeking emergency medical care, such as by demanding that emergency department patients pay before receiving treatment for emergency medical conditions or by permitting debt collection activities that interfere with the provision, without discrimination, of emergency medical care.

(3) *Relation to federal law governing emergency medical care.* Subject to paragraph (c)(2) of this section, a hospital facility's emergency medical care policy will be described in paragraph (c)(1) of this section if it requires the hospital facility to provide the care for emergency medical conditions that the hospital facility is required to provide under Subchapter G of Chapter IV of Title 42 of the Code of Federal Regulations (or any successor regulations).

(4) *Examples.* The following examples illustrate this paragraph (c):

*Example 1.* F is a hospital facility with a dedicated emergency department that is subject to the Emergency Medical Treatment and Labor Act (EMTALA) and is not a critical access hospital. F establishes a written emergency medical care policy requiring F to comply with EMTALA by providing medical screening examinations and stabilizing treatment and referring or transferring an individual to another facility, when appropriate, and providing emergency services in accordance with 42 CFR 482.55 (or any successor regulation). F's emergency medical care policy also states that F prohibits any actions that would discourage individuals from seeking emergency medical care, such as by demanding that emergency department patients pay before receiving treatment for emergency medical conditions or permitting debt collection activities that interfere with the provision, without discrimination, of emergency medical care. F's emergency medical care policy is described in paragraph (c)(1) of this section.

*Example 2.* G is a rehabilitation hospital facility. G does not have a dedicated emergency department, nor does it have specialized capabilities that would make it appropriate to accept transfers of individuals who need stabilizing treatment for an emergency

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medical condition. G establishes a written emergency medical care policy that addresses how it appraises emergencies, provides initial treatment, and refers or transfers an individual to another facility, when appropriate, in a manner that complies with 42 CFR 482.12(f)(2) (or any successor regulation). G's emergency medical care policy also prohibits G from engaging in actions that discourage individuals from seeking emergency medical care, such as by demanding that patients pay before receiving initial treatment for emergency medical conditions or permitting debt collection activities that interfere with the facility's appraisal and provision, without discrimination, of such initial treatment. G's emergency medical care policy is described in paragraph (c)(1) of this section.

(d) *Establishing the FAP and other policies*—(1) *In general.* A hospital organization has established a FAP, a billing and collections policy, or an emergency medical care policy for a hospital facility only if an authorized body of the hospital facility (as defined in § 1.501(r)-1(b)(4)) has adopted the policy for the hospital facility and the hospital facility has implemented the policy.

(2) *Implementing a policy.* For purposes of this paragraph (d), a hospital facility will be considered to have implemented a policy if the hospital facility has consistently carried out the policy.

(3) *Establishing a policy for more than one hospital facility.* A hospital organization may establish a FAP, billing and collections policy, and/or emergency medical care policy for a hospital facility that is identical to that of other hospital facilities or a joint policy that is shared with multiple hospital facilities provided that any joint policy clearly identifies each facility to which it applies. However, hospital facilities that have different AGB percentages or use different methods to determine AGB must include in their FAPs (or, in the case of information related to AGB percentages, otherwise make readily obtainable) different information regarding AGB to meet the requirements of paragraph (b)(2)(i)(C) of this section.

[T.D. 9708, 79 FR 78998, Dec. 31, 2014]

### § 1.501(r)-5 Limitation on charges.

(a) *In general.* A hospital organization meets the requirements of section

501(r)(5) with respect to a hospital facility it operates only if the hospital facility (and any substantially-related entity, as defined in § 1.501(r)-1(b)(28)) limits the amount charged for care it provides to any individual who is eligible for assistance under its financial assistance policy (FAP) to—

(1) In the case of emergency or other medically necessary care, not more than the amounts generally billed to individuals who have insurance covering such care (AGB), as determined under paragraph (b) of this section; and

(2) In the case of all other medical care covered under the FAP, less than the gross charges for such care, as described in paragraph (c) of this section.

(b) *Amounts generally billed*—(1) *In general.* For purposes of meeting the requirements of paragraph (a)(1) of this section, a hospital facility must determine AGB for emergency or other medically necessary care using a method described in paragraph (b)(3) or (b)(4) of this section or any other method specified in regulations or other guidance published in the Internal Revenue Bulletin. A hospital facility may use only one of these methods to determine AGB at any one time, but different hospital facilities operated by the same hospital organization may use different methods. A hospital facility may change the method it uses to determine AGB at any time.

(2) *Meaning of charged.* For purposes of paragraph (a)(1) of this section, a FAP-eligible individual is considered to be “charged” only the amount he or she is personally responsible for paying, after all deductions, discounts (including discounts available under the FAP), and insurance reimbursements have been applied. Thus, in the case of a FAP-eligible individual who has health insurance coverage, a hospital facility will meet the requirements of paragraph (a)(1) of this section if the FAP-eligible individual is not personally responsible for paying (for example, in the form of co-payments, co-insurance, and deductibles) more than AGB for the care after all reimbursements by the health insurer have been applied, even if the total amount paid by the FAP-eligible individual and his or her health insurer together exceeds AGB.